

AMENDED IN ASSEMBLY JULY 16, 2015

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE APRIL 20, 2015

AMENDED IN SENATE MARCH 26, 2015

SENATE BILL

No. 276

Introduced by Senator Wolk

February 19, 2015

An act to amend Section 14132.06 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 276, as amended, Wolk. Medi-Cal: local educational agencies.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law provides that specified services, including targeted case management services for children with an individualized education plan (IEP) or an individualized family service plan (IFSP), provided by local educational agencies (LEAs) are covered Medi-Cal benefits, and authorizes an LEA to bill for those services. Existing law requires the department to perform various activities with respect to the billing option for services provided by LEAs. *Existing law defines an LEA as the governing body of any school district or community college district, the county office of education, a state special school, a California State University campus, or a University of California campus.*

This bill would require the department to seek federal financial participation for covered services that are provided by an LEA to a child who is an eligible Medi-Cal beneficiary regardless of whether the child has an IEP or an IFSP, or whether those same services are provided at no charge to the beneficiary or to the community at large, if the LEA takes all reasonable measures to ascertain and pursue claims for payment of covered services against legally liable 3rd parties. The bill would require a legally liable 3rd party to either reimburse the claim or issue a notice of denial of noncoverage of services or benefits if the legally liable 3rd party receives a claim for payment of covered services submitted by an LEA. The bill would authorize an LEA to bill the Medi-Cal program if there is no response to a claim for payment of covered services submitted to a legally liable 3rd party within 45 days, and would require the LEA to retain a copy of the claim submitted to the legally liable 3rd party for a period of 3 years. *The bill would expand the definition of an LEA to include the governing body of a charter school.* The bill would provide that these provisions shall not be implemented until the department obtains necessary federal approvals.

This bill would also expand the authority of an LEA to provide targeted case management services.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) Local educational agencies (LEA) must have an approved
4 provider participant agreement with the State Department of Health
5 Care Services through the federal Centers for Medicare and
6 Medicaid Services to be eligible to provide services. To participate
7 in the LEA Medi-Cal billing option program, LEAs must reinvest
8 the federal reimbursement they receive under this program in health
9 and social services for children and families, and develop and
10 maintain a collaborative committee to assist them in decisions
11 regarding the reinvestment of federal reimbursements. The
12 providers and supervisors of staff for the assessment and medically
13 necessary health services are those qualified medical practitioners
14 the LEA employs or contracts with to render certain health services.

1 (b) The LEA billing option facilitates reinvestment in health
2 and social services for students and their families so that schools
3 can foster access to and provide comprehensive health services to
4 eligible Medi-Cal students.

5 (c) The funds are reimbursement for services rendered and can
6 be used as matching dollars to draw down federal financial
7 participation. The funds are restricted in their use; they must
8 supplement existing services, not supplant.

9 (d) It is, therefore, the intent of the Legislature in enacting this
10 act to ensure that a school district or county office of education
11 that is authorized as an LEA Medi-Cal provider is assured that all
12 options for federal financial participation are available. The
13 Legislature encourages LEAs to utilize reimbursed funds to hire
14 credentialed school nurses to supplement, not supplant, existing
15 LEA health services personnel.

16 SEC. 2. Section 14132.06 of the Welfare and Institutions Code
17 is amended to read:

18 14132.06. (a) Services specified in this section that are
19 provided by a local educational agency are covered Medi-Cal
20 benefits, to the extent federal financial participation is available,
21 and subject to utilization controls and standards adopted by the
22 department, and consistent with Medi-Cal requirements for
23 physician prescription, order, and supervision.

24 (b) Any provider enrolled on or after January 1, 1993, to provide
25 services pursuant to this section may bill for those services
26 provided on or after January 1, 1993.

27 (c) Nothing in this section shall be interpreted to expand the
28 current category of professional health care practitioners permitted
29 to directly bill the Medi-Cal program.

30 (d) Nothing in this section is intended to increase the scope of
31 practice of any health professional providing services under this
32 section or Medi-Cal requirements for physician prescription, order,
33 and supervision.

34 (e) (1) For the purposes of this section, the local educational
35 agency, as a condition of enrollment to provide services under this
36 section, shall be considered the provider of services. A local
37 educational agency provider, as a condition of enrollment to
38 provide services under this section, shall enter into, and maintain,
39 a contract with the department in accordance with guidelines

1 contained in regulations adopted by the director and published in
2 Title 22 of the California Code of Regulations.

3 (2) Notwithstanding paragraph (1), a local educational agency
4 providing services pursuant to this section shall utilize current
5 safety net and traditional health care providers, when those
6 providers are accessible to specific schoolsites identified by the
7 local educational agency to participate in this program, rather than
8 adding duplicate capacity.

9 (f) For the purposes of this section, covered services may include
10 all of the following local educational agency services:

11 (1) Health and mental health evaluations and health and mental
12 health education.

13 (2) Medical transportation.

14 (A) The following provisions shall not apply to medical
15 transportation eligible to be billed under this section:

16 (i) Section 51323(a)(2)(A) of Title 22 of the California Code
17 of Regulations.

18 (ii) Section 51323(a)(3)(B) of Title 22 of the California Code
19 of Regulations.

20 (iii) For students whose medical or physical condition does not
21 require the use of a gurney, Section 51231.1(f) of Title 22 of the
22 California Code of Regulations.

23 (iv) For students whose medical or physical condition does not
24 require the use of a wheelchair, Section 51231.2(e) of Title 22 of
25 the California Code of Regulations.

26 (B) (i) Subparagraph (A) shall become inoperative on January
27 1, 2018, or on the date the director executes a declaration stating
28 that the regulations implementing subparagraph (A) and Section
29 14118.5 have been updated, whichever is later.

30 (ii) The department shall post the declaration executed under
31 clause (i) on its Internet Web site and transmit a copy of the
32 declaration to the Assembly Committee on Budget and the Senate
33 Committee on Budget and Fiscal Review and the LEA Ad Hoc
34 Workgroup.

35 (iii) If subparagraph (A) becomes inoperative on January 1,
36 2018, subparagraph (A) and this subparagraph shall be inoperative
37 on January 1, 2018, unless a later enacted statute enacted before
38 that date, deletes or extends that date.

39 (iv) If subparagraph (A) becomes inoperative on the date the
40 director executes a declaration as described in clause (i),

1 subparagraph (A) and this subparagraph shall be inoperative on
2 the January 1 immediately following the date subparagraph (A)
3 becomes inoperative, unless a later enacted statute enacted before
4 that date, deletes or extends that date.

5 (3) Nursing services.

6 (4) Occupational therapy.

7 (5) Physical therapy.

8 (6) Physician services.

9 (7) Mental health and counseling services.

10 (8) School health aide services.

11 (9) Speech pathology services. These services may be provided
12 by either of the following:

13 (A) A licensed speech pathologist.

14 (B) A credentialed speech-language pathologist, to the extent
15 authorized by Chapter 5.3 (commencing with Section 2530) of
16 Division 2 of the Business and Professions Code.

17 (10) Audiology services.

18 (11) Targeted case management services for children regardless
19 of whether the child has an individualized education plan (IEP) or
20 an individualized family service plan (IFSP).

21 (g) Local educational agencies may, but need not, provide any
22 or all of the services specified in subdivision (f).

23 (h) For the purposes of this section, “local educational agency”
24 means the governing body of any school district or community
25 college district, the county office of education, *a charter school*,
26 a state special school, a California State University campus, or a
27 University of California campus.

28 (i) Notwithstanding any other law, a community college district,
29 a California State University campus, or a University of California
30 campus, consistent with the requirements of this section, may bill
31 for services provided to any student, regardless of age, who is a
32 Medi-Cal recipient.

33 (j) No later than July 1, 2013, and every year thereafter, the
34 department shall make publicly accessible an annual accounting
35 of all funds collected by the department from federal Medicaid
36 payments allocable to local educational agencies, including, but
37 not limited to, the funds withheld pursuant to subdivision (g) of
38 Section 14115.8. The accounting shall detail amounts withheld
39 from federal Medicaid payments to each participating local
40 educational agency for that year. One-time costs for the

1 development of this accounting shall not exceed two hundred fifty
2 thousand dollars (\$250,000).

3 (k) (1) If the requirements in paragraphs (2) and (4) are
4 satisfied, the department shall seek federal financial participation
5 for covered services that are provided by a local educational agency
6 pursuant to subdivision (a) to a child who is an eligible Medi-Cal
7 beneficiary, regardless of either of the following:

8 (A) Whether the child has an IEP or an IFSP.

9 (B) Whether those same services are provided at no charge to
10 the beneficiary or to the community at large.

11 (2) The local educational agency shall take all reasonable
12 measures to ascertain and pursue claims for payment of covered
13 services specified in this section against legally liable third parties
14 pursuant to Section 1902(a)(25) of the federal Social Security Act
15 (42 U.S.C. Sec. 1396a(a)(25)).

16 (3) If a legally liable third party receives a claim submitted by
17 a local educational agency pursuant to paragraph (2), the legally
18 liable third party shall either reimburse the claim or issue a notice
19 of denial of noncoverage of services or benefits. If there is no
20 response to a claim submitted to a legally liable third party by a
21 local educational agency within 45 days, the local educational
22 agency may bill the Medi-Cal program pursuant to subdivision
23 (b). The local educational agency shall retain a copy of the claim
24 submitted to the legally liable third party for a period of three
25 years.

26 (4) This subdivision shall not be implemented until the
27 department obtains any necessary federal approvals.